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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,475	02/05/2004	Armin Conrad	DT-6760	7041
30377	7590	12/09/2005	EXAMINER	
DAVID TOREN, ESQ. ABELMAN FRAYNE & SCHWAB 666 THIRD AVENUE NEW YORK, NY 10017-5621			WHITE, DWAYNE J	
			ART UNIT	PAPER NUMBER
			3745	

DATE MAILED: 12/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/773,475

Applicant(s)

CONRAD ET AL.

Examiner

Dwayne J. White

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 11-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 11-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/28/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant's amendment filed 28 September 2005 have been fully considered. Claims 1 and 11-18 are pending. Upon further consideration of the claims, the Examiner has regrettable withdrawn allowability of claims 5-9. The rejection made under 35 U.S.C 102(b) in the previous Office Action has been modified to reflected the Examiner's position to the claimed subject matter.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 12 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, Claims 1(line 5), 12 (line 5) and 18 (line 6) recited the limitation of a "conventional bearing". This limitation does not provide the metes and bounds of the claimed limitation because any bearing could be considered conventional and as such one of ordinary skill in the art would not be able to determine what Applicant intended as conventional at the time the invention was made.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 11-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Nagaoka et al. (5,501,583). Nagaoka et al. disclose a gas friction pump comprising: a stationary component 22B, a rotatable component 22A secured to a rotatable shaft 4, wherein the rotor shaft is supported with a magnetic bearing at the high vacuum end 9 and a bearing arrangement at the fore vacuum side end 10; and a sealing means 32 between the gas bearing and the low pressure side. The fore vacuum side bearing arrangement is characterized as comprising: a radial gas bearing and a magnetic axial bearing, a radial magnetic bearing and a axial gas bearing, a radial and axial gas bearing (Column 5, lines 10-30).

Based on the definition provided by Applicant on page 10 for “module” stating, “a unit, which contains all of the essential components of a bearing, is considered to be a module,” it is the position of the Examiner, in regards to claim 1, that any one of the bearings disclosed in Nagaoka et al. would be considered a module since any one of the bearings would contain all of the essential component of that particular bearing.

In regards to claim 12, since the fore-vacuum side of the pump has a separate housing component and all of the claimed bearings are positioned within that component, it is the position of the Examiner that since all of the essential components of the bearings are in that

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housing it can be considered a module as claimed by Applicant. Similarly, in regards to claim 18, the drive 13 is included in the housing component on the high vacuum side end of the pump along with the bearings. Therefore it is the position of the Examiner, based on Applicant's definition, that the drive and the bearings are combined as a module by the housing component.

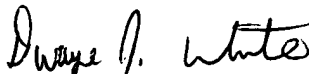
### CONCLUSION

#### *Contact Information*


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dwayne J. White whose telephone number is (571) 272-4825. The examiner can normally be reached on 7:00 am to 4 pm T-F and alternate Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on (571) 272-4820. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
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Patent Examiner  
Art Unit 3745

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12/5/05